IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

APPEAL NO.706 OF 2005

IN

SUMMONS FOR JUDGMENT NO.116 OF 2004

IN

SUMMARY SUIT NO.4038 OF 2003

...

Micky Khemchand Lalla ...Appellant

v/s.

Bob Cards Limited ...Respondent

...

Mr.Rajiv Matkar for the Appellant.

None for the Respondent.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 10TH OCTOBER, 2007

P.C.:

1. This Appeal is directed against the order dated 20-1-2005 passed in Summons for Judgment No.116 of 2004. By that order, in the absence of any reply filed by the Appellant, the court has granted the summons for judgment and decreed the suit.

2. The suit was based on the bills, which according to the Plaintiff, were payable on account of transactions carried out on the credit-card. Perusal of the plaint shows that no where it is disclosed as to how interest has been charged. It further appears that in stead of interest, service charges have been charged at the rate of 2.75%.

3. The Appellant has explained the circumstances in which the Appellant was not in a position to file his reply. He has also expressed his willingness to deposit the amount of principal, which appears to be about Rs.92,000/- with reasonable rate of interest.

4. The Respondent has been served. Notice has also

been given by the Appellant to the advocate appearing for the Respondent that the matter is to be heard finally today. But none appears for the Respondent.

5. Taking overall view of the matter, therefore, in our opinion, following order would meet the ends of justice.

O R D E R

(i) On the Appellant depositing in this court, with due notice to the Plaintiff, an amount of Rs.1,50,000/- within a period of fifteen weeks from today, the order impugned in the Appeal shall stand set aside and the Summons for Judgment No.116 of 2004 shall stand restored to file.

(ii) The Appellant/Defendant shall file his application for leave to defend in the Summons for Judgment within a period of three weeks from the date of deposit of the amount. Summons for Judgment shall, thereafter, be placed before the appropriate court for disposal in accordance with law.

(iii) If the Appellant fails to deposit the amount,

as directed above, this Appeal shall be treated as dismissed.

(iv) In case the amount is deposited, the Plaintiff shall be permitted to withdraw the amount on furnishing an undertaking to redeposit the amount, if so directed by this Court and on such terms and conditions as may be directed by this Court.

(v) Appeal disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)